

REMARKS

With entry of this amendment, claims 1, 2, 5-13 and 35-55, 86, and 87 are pending. Of these, claims 1, 2, 5-13, 35-41, and 45-52 stand rejected, claims 42-44 and 53-55 have been found to contain allowable subject matter, and claims 86 and 87 have been newly added. Claims 3 and 4 have been cancelled. Based on the foregoing amendments and following remarks, reconsideration and allowance of this application is respectfully requested.

Claim Rejections-35 U.S.C. §102

Quijano

Claims 1, 2, 5-8, 10-12, 35-40, and 45-51 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Publication No. 2003/0014098 to Quijano, et al. ("Quijano"). Applicant respectfully traverses this rejection, since Quijano does not disclose each and every element required by these claims.

In particular, independent claim 1 has been amended to require the ablation probe to include a plurality of independently controllable thermoelectric devices. Each of independent claims 35 and 45 has been amended to require the cooling devices to be independently controllable. In contrast, to the extent that elements 13, 14 (or elements 86, 87) can individually be considered cooling devices, they are not independently controllable. That is, elements 13, 14 (or elements 86, 87) are configured to operate together to effect the cooling function. Applicant also notes that elements 13, 14 are thermally isolated from the ablative element 12 via the buffer zone 15, and thus, are not in thermal communication with an ablative element, as required by the claims.

Thus, Applicant submits that independent claims 1, 35, and 45, as well as the claims depending therefrom (claims 2, 5-8, 10-12, 36-40, and 46-51), are not anticipated by Quijano, and as such, respectfully request withdrawal of the rejections of these claims.

Panescu

Claim 1 stands rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Publication No. 5,735,846 to Panescu, et al. ("Panescu"). Applicant respectfully traverses this rejection, since Panescu does not disclose each and every element required by this claim, as amended.

In particular, independent claim 1 has been amended to require the ablation probe to include a plurality of independently controllable thermoelectric devices. In contrast, Panescu discloses a single thermoelectric device in thermal communication with the ablative element.

Thus, Applicant submits that independent claim 1 is not anticipated by Panescu, and as such, respectfully request withdrawal of the rejections of this claim.

Claim Rejections-35 U.S.C. §103

Claims 9, 41, and 52 stand rejected under 35 U.S.C. §103 as being obvious over Quijano in view of U.S. Patent No. 5,755,752 issued to Segal ("Segal"), and claim 13 stands rejected under 35 U.S.C. §103 as being obvious over Quijano in view of Panescu. Applicant respectfully traverses these rejections, since no proper combination of these references discloses, teaches, or suggests the combination of elements required by these claims.

In particular, independent claims 1, 35, and 45 from which claims 9, 41, and 52 respectively depend require a plurality of independently controllable cooling devices in thermal communication with a heat ablative element. As discussed above, Quijano and Panescu do not disclose this feature, and Segal does not supplement this failed teaching.

Thus, Applicant submits that claims 9, 41, and 52 are not obvious over Quijano, Panescu, and Segal, and as such, respectfully request withdrawal of the rejections of these claims.

#### Allowable Subject Matter

While Applicant graciously acknowledges the Examiner's indication that claims 42-44 and 53-55 recite patentable subject matter, Applicant believes that independent claims 35 and 45 from which these claim depend are patentable. As such, claims 42-44 and 53-55 have not been rewritten in independent format.

#### Newly Added Claims

Applicant submits that newly added claims 86 and 87 are supported by the specification, as originally filed, and are patentable over the cited prior art for at least the same reasons as independent claims 1 and 35 from which they depend are patentable over the cited prior art.

#### Conclusion

Based on the foregoing, it is believed that all claims are now allowable and a Notice of Allowance is respectfully requested. If the Examiner has any questions or comments

regarding this amendment, the Examiner is respectfully requested to contact the undersigned at (949) 724-1849.

Respectfully submitted,

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